



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2446/1  
RM/MS/GM/TF/JK/JTK:kmg:cph

RM not run

2003 BILL

in 4-25-03

500W

re gov

1 AN ACT *to renumber* 44.02 (24), 71.10 (4) (dr) and 101.121 (4) (a); *to renumber*  
2 *and amend* 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to*  
3 *consolidate, renumber and amend* 66.0413 (4) (a) and (b); *to amend* 13.48  
4 (7), 13.48 (15), 59.69 (4m), 60.64, 62.23 (7) (em), 66.0413 (1) (b) 1., 66.0413 (1)  
5 (h), 66.0413 (1) (k), 66.0413 (3) (c), 71.07 (5m) (a) 4., 71.07 (9m) (c), 71.07 (9r)  
6 (b) 3. a., 71.28 (6) (c), 71.47 (6) (c), 101.121 (4) (b), 101.122 (4) (b) 1., 101.132 (2)  
7 (b) 1., 101.132 (2) (b) 2., 101.132 (2) (b) 3., 101.19 (1) (intro.), 254.61 (1) (f) 2. and  
8 823.21; and *to create* 13.48 (10) (c), 41.11 (1) (bm), 44.02 (24) (b), 44.02 (24d),  
9 44.46, 66.0414, 71.07 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m) (g), 71.07 (9m) (h),  
10 71.07 (9r) (a) 2., 71.07 (9r) (b) 3. am., 71.28 (6) (a) 2., 71.28 (6) (cm), 71.28 (6) (g),  
11 71.28 (6) (h), 71.47 (6) (a) 2., 71.47 (6) (cm), 71.47 (6) (g), 71.47 (6) (h), 84.013  
12 (3g), 86.36, 86.37, 101.121 (3) (c), 101.121 (4) (a) 2., 101.121 (5), 101.121 (6),  
13 101.132 (2) (b) 3m., 101.132 (2) (e) 3., 101.19 (1m), 101.975 (4), 560.03 (21m) and  
14 560.083 of the statutes; **relating to:** the regulation, preservation, and

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1 restoration of historic buildings, the supplement to the federal historic  
2 rehabilitation tax credit and the state historic rehabilitation tax credit,  
3 requiring the certification of downtowns, promoting certain downtown areas in  
4 this state, highway projects involving business and downtown areas, the  
5 construction of major highway projects involving a bypass, granting  
6 rule-making authority, and making appropriations.

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***Analysis by the Legislative Reference Bureau***

This bill makes numerous changes with regard to downtown development and historic buildings and also makes a change to current law regarding the construction of major highway projects involving a bypass. Significant provisions include the following:

**HISTORIC BUILDINGS****~~Razing of historic buildings~~**

~~This bill prohibits a local governmental unit (city, village, town, or county) from razing a building that is a historic building or that is more than 50 years old unless the local governmental unit notifies the State Historical Society and allows the State Historical Society time to create or preserve a historic record of the building. Upon request of the State Historical Society, the local governmental unit must provide an opportunity for residents to request a public hearing on the decision to raze the building. The bill also requires the owner of the building to reuse the building materials or to contract with a demolition contractor who will reuse the building materials, to the maximum extent feasible.~~

~~Current law authorizes a municipality to order the owner of any old, dilapidated, or unsafe building to raze the building. Any person affected by such an order may appeal the order to circuit court, where the issue is the reasonableness of the order.~~

~~This bill eliminates the age of the building from the criteria that may lead to an order to raze the building. The bill also provides that, if the order relates to a historic building, representatives of a local historical society and the owner of a historic building located within 200 yards of the historic building that is subject to the order may appeal the order to circuit court.~~

***State Historic Building Code***

Current law authorizes the Department of Commerce (department) to regulate the preservation and restoration of qualified historic buildings. A qualified historic building is a building that is listed on the national or state register of historic places, or a certified local register of historic property, or that is located in a district that is listed on the national or state register of historic places and is of historical significance to the district. Current law permits the department, in consultation

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with the Historic Building Code Council, to promulgate a historic building code that provides specific standards for the preservation or restoration of qualified historic buildings, while still providing for the health, safety, and welfare of occupants of and visitors to historic buildings. In addition, to permit the preservation or restoration of qualified historic buildings, the department may grant a variance from any rule promulgated under the chapters of the statutes relating to the regulation of industry, buildings, and safety or the regulation of plumbing, fire protection systems, and swimming pools.

With certain exceptions, the owner of a qualified historic building may elect to be subject to the State Historic Building Code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the State Historic Building Code. Although current law does not contain an administrative procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of the department that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

This bill specifies that the State Historic Building Code must be liberally interpreted to facilitate the preservation and restoration of qualified historic buildings. The bill also creates a specific administrative procedure for determining the extent to which a provision in a local building code applies to a qualified historic building. The bill permits the owner of a qualified historic building who has elected to be governed by the State Historic Building Code to request that the department review any decision of a local governmental unit that requires the owner to comply with a provision in a local ordinance. The department must review the decision to determine whether the provision in the ordinance concerns a matter dealt with in the State Historic Building Code, in which case the owner would be exempt from the provision. The bill specifies that, in performing this review, the department must follow the existing procedure for resolving conflicts between local orders and orders of the department that relate to the safety of places of employment or public buildings.

This bill also expands the role of the State Historical Society relating to the State Historic Building Code. Under the bill, the owner of a qualified historic building may request that the State Historical Society review certain decisions of the department, or of a local governmental unit acting as an agent of the department, relating to the State Historic Building Code, variances under the State Historic Building Code, or the inspection of qualified historic buildings for compliance with the State Historic Building Code. The State Historical Society must review the particular decision and issue an advisory opinion as to whether the decision or an alternate decision is consistent with the State Historic Building Code. The bill permits the State Historical Society to negotiate with the department or the particular local governmental unit to achieve an alternate decision that would allow the greatest possible degree of restoration and preservation, while still providing for the health, safety, and welfare of occupants of and visitors to the qualified historic

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building. The bill also permits the department or the particular local governmental unit to modify a reviewed decision, based upon these negotiations. In addition, the bill requires the department, in cooperation with the State Historical Society, to develop an informational pamphlet to increase public awareness and use of the State Historic Building Code.

**~~Historic buildings used as multifamily dwellings~~**

Current law requires the department to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or six stories and that consists of three or more attached dwelling units. The Multifamily Dwelling Code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the State Historic Building Code. Rules promulgated by the department also permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the Multifamily Dwelling Code. Currently, the Multifamily Dwelling Code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

This bill permits a local governmental unit to adopt an ordinance that allows the local governmental unit to grant a variance from these handrail and guardrail requirements, as they apply to a qualified historic building that is converted from a single-family dwelling to a multifamily dwelling. Under the bill, the ordinance must require an owner of a qualified historic building who seeks a variance to show that the type, height, and design of the handrail or guardrail proposed for installation are historically appropriate. If the owner makes this showing, the local governmental unit may grant the variance, as long as the proposed installation is at least as protective of public safety as the handrail or guardrail that otherwise would have been required.

Current law requires certain multifamily dwellings to meet design and construction standards that ensure accessibility for individuals with physical disabilities. In certain circumstances, these requirements may apply to a qualified historic building that is remodeled or added to for use as a multifamily dwelling. This bill specifies that a qualified historic building that is remodeled is exempt from accessibility requirements that are otherwise triggered by the remodeling of a multifamily dwelling. The bill also provides that all rules promulgated by the department relating to the accessibility of multifamily dwellings that are qualified historic buildings must comply with, and may not exceed, the requirements of the federal Fair Housing Act and the federal Americans with Disabilities Act, and regulations promulgated under those acts.

**~~Exemption from fees~~**

Currently, the department must charge fees to recover the costs of certain services that it provides relating to, among other things, reviewing construction plans and inspecting public buildings, places of employment, and other building

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~~components and locations that are subject to the department's jurisdiction. This bill requires the department to waive these fees for services relating to any preservation or restoration of a building or structure that is more than 100 years old, if the state historic preservation officer certifies: 1) that the building or structure is listed or eligible to be listed on the national or state register of historic places or is a building of historical significance in a district that is listed or eligible to be listed on the national or state register of historic places; and 2) that the preservation or restoration plan complies with standards applicable to projects that qualify for an income tax credit for historic property rehabilitation.~~

***Historic agricultural building grants***

~~This bill directs the State Historical Society to award grants to owners of historic agricultural buildings to assist in the restoration of the buildings.~~

***Historic preservation in local governmental units***

This bill directs local governmental units to interpret liberally their regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

***Study of rural historic preservation***

~~This bill requests the Joint Legislative Council to study methods of promoting rural historic preservation.~~

***Historic rehabilitation tax credit***

Under current law, a person who is eligible to claim a federal income tax credit equal to either 10% of qualified expenses related to rehabilitating a qualified building in this state or 20% of qualified expenses related to rehabilitating historic property in this state may also claim a supplemental state income or franchise tax credit that is equal to 5% of such qualified expenses.

Under the bill, for taxable years beginning in 2004, ~~a person who is eligible to claim the federal income tax credit for rehabilitating qualified buildings or historic property in this state may claim a supplemental state income tax or franchise tax credit that is equal to 20% of the qualified expenses related to rehabilitating a qualified building or historic property.~~ Under the bill, a person who is not eligible to claim the federal rehabilitation tax credit because the person's qualified expenses do not satisfy the adjusted-basis requirement under federal law may claim the supplemental state rehabilitation credit, if the person's qualified expenses are at least \$10,000 and the rehabilitation is approved, and the expenses are certified, by the state Historical Society. In addition, a person who would otherwise be eligible to claim the federal rehabilitation tax credit, except that the rehabilitated property is not a certified historic structure as defined under the Internal Revenue Code, may claim the supplemental state rehabilitation credit, if the rehabilitated property is located in a certified downtown or is included in a business area revitalization, and the state Historical Society approves the rehabilitation. The state Historical Society may charge and collect a fee for such certifications in an amount equal to 1% of the qualified expenses, but not less than \$150 nor more than \$10,000.

Under current law, a person may claim an income tax credit equal to 25% of the qualified expenses to preserve or rehabilitate historic property that is used as an

in an amount equal to 20% of qualified expenses

under the State Main  
Street Program

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*in an amount equal to 30% of qualified expenses*

*of \$150*

owner-occupied personal residence. The state Historical Society certifies such expenses.

Under this bill, for taxable years beginning in 2004, ~~a person may claim an income tax credit equal to 30% of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence.~~ The state Historical Society may charge and collect a fee for certifying such expenses. ~~The amount of the fee is \$150.~~ *In addition,* a person who would otherwise be eligible to claim the state income tax credit for preserving or rehabilitating historic property, except that the preserved or rehabilitated property is not historic property, may claim the state income tax credit, if the preserved or rehabilitated property is located in a certified downtown or is included in a business area revitalization and the state Historical Society approves the preservation or rehabilitation.

Under current law, if a person who claims the income tax credit for qualified expenses to preserve or rehabilitate an owner-occupied personal residence sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or on the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

Under this bill, if a person who claims the supplemental state income or franchise tax credit for qualified expenses related to preserving or rehabilitating historic property in this state sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

**DOWNTOWN DEVELOPMENT*****Certification and promotion of downtowns***

This bill requires the department to develop and publish guidelines to aid communities in reconstructing central business districts that are destroyed or severely damaged in major disasters. The bill also requires the department to promulgate rules pursuant to which the department will certify downtowns. In addition, under the bill, the Department of Tourism must promote travel to these certified downtowns and to business areas that are or have been the subject of revitalization efforts under the State Main Street Program (a program that promotes revitalization efforts in certain business areas).

Currently, the Building Commission submits biennial recommendations to the legislature for revisions to the long-range state building program. No state agency or authority may engage any person to undertake construction of a building for the agency costing more than \$100,000 without prior approval of the commission. In

*under the State Main Street Program*

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addition, the commission has authority to lease land and buildings to be used for state purposes unless that authority is granted by law to another state agency.

This bill provides that the commission shall not authorize construction of any state office building to be located outside of a downtown area certified by the Department of Commerce as required under the bill, unless the cost of locating the building inside such a downtown area is more than 10% greater than the average cost of locating the building in that portion of the geographic area that is served by the functions to be performed in the building on the date of initial occupancy outside of such a downtown area, as determined by the Department of Administration (DOA). The bill also provides that the commission, in preparing its recommendations for the long-range building program, shall not recommend construction of a state office building to be located outside of such a downtown area, unless the commission would be authorized to permit construction of that building in the recommended location. In addition, the bill prohibits the commission from approving the lease of any building for state office facilities to be located outside of such a downtown area unless the cost of locating the facilities inside such a downtown area is more than 10% greater than the average cost of locating the facilities in that portion of the geographic area that is served by the functions to be performed in the facilities on the date of initial occupancy under the lease outside of such a downtown area, as determined by DOA.

This bill imposes additional requirements relating to highway projects that are funded by the Department of Transportation (DOT) and that involve a highway in a business area included in the State Main Street Program or in a downtown certified by the Department of Commerce. First, DOT must consult, during preliminary stages of a proposed highway project, on issues concerning the proposed project and its effect on the business or certified downtown area with the Department of Commerce and, unless none exists, with a local board or downtown planning organization of that municipality. Second, DOT must give priority to retaining any on-street parking with respect to a highway-widening project in a business or certified downtown area.

This bill specifies that DOT, in providing any matching funds for local highway projects, is required to fund the construction of any highway lane without regard to whether it is a travel lane or a parking lane. This requirement applies only to local highway projects that are in business areas under the State Main Street Program or in downtowns certified by the Department of Commerce.

**MAJOR HIGHWAY PROJECTS**

Under current law, DOT administers a major highway projects program. A major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes at least five miles in length to the highway; or improvement of an existing multilane divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, requires the approval of the Transportation Projects Commission and the legislature before the project may be constructed. The current list of major highway

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projects that are approved for construction includes six projects that involve bypasses.

This bill provides that, prior to constructing a major highway project involving a bypass, DOT must notify the governing body of the city, village, or town primarily to be affected by the bypass of DOT's proposed construction of the bypass. If the governing body of the city, village, or town adopts a resolution, within 90 days of being notified by DOT, stating that an active bypass is in the best public interest of the city, village, or town and sends a copy of the resolution to DOT within seven days of its adoption, DOT is required to design and construct an active bypass. The bill defines "active bypass" as a bypass of an existing highway that is designed and constructed in such a way that access to the bypass requires motorists to exit the existing highway in order to travel on the bypass.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 13.48 (7) of the statutes is amended to read:

2       13.48 (7) BIENNIAL RECOMMENDATIONS. The building commission shall prepare  
3       and formally adopt recommendations for the long-range state building program on  
4       a biennial basis. The building commission shall include in its report any projects  
5       proposed by the state fair park board involving a cost of not more than \$250,000,  
6       together with the method of financing those projects proposed by the board, without  
7       recommendation. Unless a later date is requested by the building commission and  
8       approved by the joint committee on finance, the building commission shall, no later  
9       than the first Tuesday in April of each odd-numbered year, transmit the report  
10      prepared by the department of administration under s. 16.40 (20) and the  
11      commission's recommendations for the succeeding fiscal biennium that require  
12      legislative approval to the joint committee on finance in the form of proposed  
13      legislation prepared in proper form. If the building commission includes any  
14      recommendation for construction of a state office building, the commission shall



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1 ensure that the recommended location of the building is consistent with construction  
2 requirements under sub. (10) (c).

3 **SECTION 2.** 13.48 (10) (c) of the statutes is created to read:

4 13.48 (10) (c) Unless otherwise required by law, the building commission shall  
5 not authorize the construction of any state office building, whether for utilization by  
6 a single agency or otherwise, to be located outside of a downtown area, as certified  
7 under s. 560.03 (21m), unless the cost of locating the building inside a downtown area  
8 is more than 10% greater than the average cost of locating the building in that  
9 portion of the geographic area that is served by the functions to be performed in the  
10 building on the date of initial occupancy outside of any downtown area, as  
11 determined by the department of administration.

12 **SECTION 3.** 13.48 (15) of the statutes is amended to read:

13 13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. Subject to the requirements  
14 of s. 20.924 (1) (i), the building commission shall have the authority to acquire  
15 leasehold interests in land and buildings where such authority is not otherwise  
16 provided to an agency by law. The building commission shall not approve any lease  
17 for state office facilities, whether for utilization by a single agency or otherwise, to  
18 be located outside of a downtown area, as certified under s. 560.03 (21m), unless the  
19 cost of locating the facilities inside a downtown area is more than 10% greater than  
20 the average cost of locating the facilities in that portion of the geographic area that  
21 is served by the functions to be performed in the facilities on the date of initial  
22 occupancy under the lease outside of any downtown area, as determined by the  
23 department of administration.

24 **SECTION 4.** 41.11 (1) (bm) of the statutes is created to read:

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1        41.11 (1) (bm) Promote travel to business areas that are or have been the  
2        subject of revitalization efforts under the State Main Street Program under s.  
3        560.081 or that are certified downtowns under s. 560.03 (21m).

4        **SECTION 5.** 44.02 (24) of the statutes is renumbered 44.02 (24) (a).

5        **SECTION 6.** 44.02 (24) (b) of the statutes is created to read:

6        44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The  
7        historical society shall collect the fee under this paragraph when an applicant  
8        applies for certification under par. (a).

9        **SECTION 7.** 44.02 (24d) of the statutes is created to read:

10       44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary  
11       to certify, and shall certify, expenditures for preservation or rehabilitation of historic  
12       property for the purposes of ss. 71.07 (9m) (a) and (cm), 71.28 (6) (a) and (cm), and  
13       71.47 (6) (a) and (cm). Such standards shall be substantially similar to the standards  
14       used by the secretary of the interior to certify rehabilitations under 26 USC 47 (c) (2).

15       (b) Charge a fee for a certification under par. (a) equal to 1% of the qualified  
16       rehabilitation expenditures for the historic property that is the subject of the  
17       certification, except that no fee under this paragraph may be less than \$150 nor more  
18       than \$10,000. The historical society shall collect the fee under this paragraph when  
19       an applicant applies for certification under par. (a).

20       ~~**SECTION 8.** 44.46 of the statutes is created to read.~~

21       ~~**44.46 Historic agricultural building grants.** (1) In this section, "historic~~  
22       ~~agricultural building" means any building or structure that is designed for~~  
23       ~~agricultural purposes and that is significant in the history, architecture, or culture~~  
24       ~~of this state.~~

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1       (2) From the appropriation under s. 20.245 (1) (a), the historical society shall  
2       award grants to owners of historic agricultural buildings to assist in the restoration  
3       of the buildings. To receive a grant, the owner shall match the amount of the grant,  
4       shall agree to use the total amount of funds to restore the historic agricultural  
5       building, and shall agree to use the restored historic agricultural building in a  
6       manner consistent with the public policy expressed in s. 44.30.

7       **SECTION 9.** 59.69 (4m) of the statutes is amended to read:

8       **59.69 (4m) HISTORIC PRESERVATION.** A county, as an exercise of its zoning and  
9       police powers for the purpose of promoting the health, safety and general welfare of  
10      the community and of the state, may regulate by ordinance any place, structure or  
11      object with a special character, historic interest, aesthetic interest or other  
12      significant value, for the purpose of preserving the place, structure or object and its  
13      significant characteristics. The county may create a landmarks commission to  
14      designate historic landmarks and establish historic districts. The county may  
15      regulate all historic landmarks and all property within each historic district to  
16      preserve the historic landmarks and property within the district and the character  
17      of the district, and shall interpret the county's regulations liberally to facilitate the  
18      preservation and restoration of historic buildings and structures.

19      **SECTION 10.** 60.64 of the statutes is amended to read:

20      **60.64 Historic preservation.** The town board, in the exercise of its zoning  
21      and police powers for the purpose of promoting the health, safety and general welfare  
22      of the community and of the state, may regulate any place, structure or object with  
23      a special character, historic interest, aesthetic interest or other significant value for  
24      the purpose of preserving the place, structure or object and its significant  
25      characteristics. The town board may create a landmarks commission to designate

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1 historic landmarks and establish historic districts. The board may regulate all  
2 historic landmarks and all property within each historic district to preserve the  
3 historic landmarks and property within the district and the character of the district,  
4 and shall interpret the board's regulations liberally to facilitate the preservation and  
5 restoration of historic buildings and structures.

6 **SECTION 11.** 62.23 (7) (em) of the statutes is amended to read:

7 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and  
8 police powers for the purpose of promoting the health, safety and general welfare of  
9 the community and of the state, may regulate by ordinance, or if a city contains any  
10 property that is listed on the national register of historic places in Wisconsin or the  
11 state register of historic places shall, not later than 1995, enact an ordinance to  
12 regulate, any place, structure or object with a special character, historic,  
13 archaeological or aesthetic interest, or other significant value, for the purpose of  
14 preserving the place, structure or object and its significant characteristics. A city  
15 may create a landmarks commission to designate historic or archaeological  
16 landmarks and establish historic districts. The city may regulate, or if the city  
17 contains any property that is listed on the national register of historic places in  
18 Wisconsin or the state register of historic places shall regulate, all historic or  
19 archaeological landmarks and all property within each historic district to preserve  
20 the historic or archaeological landmarks and property within the district and the  
21 character of the district, and shall interpret the city's regulations liberally to  
22 facilitate the preservation and restoration of historic buildings and structures.

23 **SECTION 12.** 66.0413 (1) (b) 1. of the statutes is amended to read:

24 66.0413 (1) (b) 1. ~~If a building is old, dilapidated or out of repair and~~  
25 ~~consequently dangerous, unsafe, unsanitary or otherwise unfit for human~~

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habitation and unreasonable to repair, order the owner of the building to raze the building or, if the building can be made safe by reasonable repairs, order the owner to either make the building safe and sanitary or to raze the building, at the owner's option.

**SECTION 13.** 66.0413 (1) (h) of the statutes is amended to read:

66.0413 (1) (h) *Restraining order.* A person affected by an order issued under par. (b) may within the time provided by s. 893.76 apply to the circuit court for an order restraining the building inspector or other designated officer from razing the building or forever be barred. The hearing shall be held within 20 days and shall be given preference. The court shall determine whether the raze order is reasonable. If the order is found reasonable the court shall dissolve the restraining order. If the order is found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs are in the discretion of the court. If the court finds that the order is unreasonable, the building inspector or other designated officer shall issue no other order under this subsection in regard to the same building until its condition is substantially changed. The remedies provided in this paragraph are exclusive remedies and anyone affected by an order issued under par. (b) is not entitled to recover any damages for the razing of the building. For the purposes of this paragraph, if the order requires the razing of a historic building, as defined in sub. (3) (a) 1m., persons affected by the order include representatives of a local historical society and the owner of a historic building, as defined in sub. (3) (a) 1m., that is located within 200 yards of the historic building that is subject to the order.

**SECTION 14.** 66.0413 (1) (k) of the statutes is amended to read:

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## SECTION 14

1        ~~66.0413 (1) (k) *Public nuisance procedure.* A building which is determined~~  
2        ~~under par. (b) 1. to be old, dilapidated or out of repair and consequently dangerous,~~  
3        ~~unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to~~  
4        ~~repair may be proceeded against as a public nuisance under ch. 823.~~

5        **SECTION 15.** ~~66.0413 (3) (c) of the statutes is amended to read.~~

6        ~~66.0413 (3) (c) If an order is issued under this section to raze and remove a~~  
7        ~~historic building and restore the site to a dust-free and erosion-free condition, an~~  
8        ~~application is made for a permit to raze and remove a historic building and restore~~  
9        ~~the site to a dust-free and erosion-free condition or a municipality intends to raze~~  
10       ~~and remove a municipally owned historic building and restore the site to a dust-free~~  
11       ~~and erosion-free condition, the municipality in which the historic building is located~~  
12       ~~shall notify the state historical society of the order, application or intent. No historic~~  
13       ~~building may be razed and removed nor the site restored to a dust-free and~~  
14       ~~erosion-free condition for 30 days after the notice is given, unless a shorter period~~  
15       ~~is authorized by the state historical society. If the state historical society authorizes~~  
16       ~~a shorter period, however, such a period shall be subject to any applicable local~~  
17       ~~ordinance. During the 30-day period, the state historical society shall have access~~  
18       ~~to the historic building to create or preserve a historic record. If the state historical~~  
19       ~~society completes its creation or preservation of a historic record, or decides not to~~  
20       ~~create or preserve a historic record, before the end of the 30-day period, the society~~  
21       ~~may waive its right to access the building and may authorize the person who intends~~  
22       ~~to raze and remove the building, and restore the site to a dust-free and erosion-free~~  
23       ~~condition, to proceed before the end of such period, except that such a person shall~~  
24       ~~be subject to any applicable local ordinance or a building that is more than 50 years~~  
25       old, s. 66.0414 applies.

## BILL

1        ~~SECTION 16. 66.0413 (4) (a) and (b) of the statutes are consolidated,~~  
2        ~~renumbered 66.0413 (4) and amended to read:~~

3        ~~66.0413 (4) FIRST CLASS CITIES; OTHER PROVISIONS. First class cities may adopt,~~  
4        ~~by ordinance, alternate or additional provisions governing the placarding, closing,~~  
5        ~~razing and removal of a building and the restoration of the site to a dust-free and~~  
6        ~~erosion-free condition. (b) This subsection shall be liberally construed to provide 1st~~  
7        ~~class cities with the largest possible power and leeway of action, except that any~~  
8        ~~alternate or additional provision adopted shall be no less stringent than the~~  
9        ~~corresponding provision in s. 66.0414.~~

10        ~~SECTION 17. 66.0414 of the statutes is created to read:~~

11        ~~**66.0414 Razing historic buildings and buildings that are more than 50**~~  
12        ~~**years old. (1) DEFINITIONS. In this section:**~~

13        ~~(a) "Authority" means a housing authority under subch. XII, a redevelopment~~  
14        ~~authority under s. 66.1338, or a housing and community development authority~~  
15        ~~under s. 66.1335.~~

16        ~~(b) "Historic building" has the meaning given in s. 66.0413 (3) (a) 1m.~~

17        ~~(c) "Local governmental unit" means a city, village, town, or county, and~~  
18        ~~includes an authority acting on behalf of or at the direction of a city, village, or town.~~

19        ~~(d) "Resident," in the case of a local governmental unit that is an authority,~~  
20        ~~means a resident of the city, village, or town on whose behalf or at whose direction~~  
21        ~~the authority is acting.~~

22        ~~(2) NOTICE TO STATE HISTORICAL SOCIETY. If a local governmental unit issues an~~  
23        ~~order or permit or other similar directive or authorization to raze a building, or if a~~  
24        ~~local governmental unit intends to raze a building that is owned by the local~~  
25        ~~governmental unit, and the building is either a historic building or more than 50~~

## BILL

## SECTION 17

1 years old, the local governmental unit shall notify the state historical society of the  
2 order, permit, directive, or authorization or of its intent.

3 (3) DELAY IN RAZING. (a) Except as provided in sub. (4) (a) 3. and (b), a local  
4 governmental unit may not raze a building subject to sub. (2) during the following  
5 period after the notice is given to the state historical society:

6 1. For a historic building, 60 days.

7 2. For a building more than 50 years old that is not a historic building, 30 days.

8 (b) Upon request by the state historical society, the local governmental unit  
9 may extend the period of delay in razing under par. (a).

10 (c) During the period of delay in razing under par. (a) and during any extension  
11 of a period of delay, the state historical society shall have access to the building to  
12 create or preserve a historic record and access to the building shall be a condition of  
13 the order, permit, directive, or authorization issued by the local governmental unit.

14 (4) OPPORTUNITY TO REQUEST PUBLIC HEARING; WRITTEN FINDINGS. (a) 1. For a  
15 building subject to sub. (2), the state historical society may direct the local  
16 governmental unit to provide notice and the opportunity to request a public hearing.

17 2. If the state historical society directs the local governmental unit to provide  
18 notice and the opportunity to request a public hearing under subd. 1., the local  
19 governmental unit shall provide notice to any person who requests notice by mail and  
20 by publishing a class 1 notice, under ch. 985. Within 30 days after the local  
21 governmental unit publishes the notice, if 5 or more residents of the local  
22 governmental unit submit a request for a hearing on the matter, the local  
23 governmental unit shall either hold a public hearing or make written findings  
24 setting forth the reasons for denying the request for a hearing and responding to  
25 issues raised in the request for a hearing.



## BILL

3. If 5 or more residents of the local governmental unit submit a request for a hearing under subd. 2., the period of delay in razing under sub. (3) (a) does not end until the local governmental unit holds the public hearing or makes written findings, as required under subd. 2.

(b) If the state historical society does not direct the local governmental unit to provide notice and the opportunity to request a public hearing, the state historical society may waive the period of delay in razing under sub. (3) (a) if the state historical society determines that the delay is not necessary to accomplish the purpose of sub. (3) (c).

(5) REUSE OF BUILDING MATERIALS. The owner of the building that is razed shall reuse the building materials or contract with a demolition contractor who will reuse the building materials, to the maximum extent feasible.

(6) APPLICABILITY. This section does not apply to part of a building that is not a historic building if that part of the building is 50 years old or less.

SECTION 18. 71.07 (5m) (a) 4. of the statutes is amended to read:

71.07 (5m) (a) 4. "Net tax liability" means a claimant's income tax liability after he or she completes the computations listed in s. 71.10 (4) (a) to ~~(dr)~~ (dm).

SECTION 19. 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and amended to read:

71.07 (9m) (a) 1. *Except as provided in subd. 2, any* Any person may credit against the taxes otherwise due *claim as a* imposed under this chapter s. 71.02, up to the amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified historic structures on property located in this state, if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, ~~and~~

## BILL

~~before January 1, 2004,~~ and the rehabilitated property is placed in service after June 30, 1989.

SECTION 20. 71.07 (9m) (a) 2. of the statutes is created to read:

~~71.07 (9m) (a) 2. Any person may credit against the taxes imposed under s. 71.02, up to the amount of those taxes, an amount equal to 20% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic structures on property located in this state, if the physical work of construction or destruction in preparation for construction begins after December 31, 2003.~~

SECTION 21. 71.07 (9m) (c) of the statutes is amended to read:

71.07 (9m) (c) No Except as provided in par. (cm), no person may claim the a  
credit under this subsection unless the claimant includes with the claimant's return evidence that the rehabilitation was approved recommended by the state historic preservation officer for approval by the secretary of the interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began; and the claimant claims the credit for the same taxable year in which the claimant would have claimed the credit for federal purposes.

SECTION 22. 71.07 (9m) (cm) of the statutes is created to read:

71.07 (9m) (cm) <sup>1</sup> A person whose qualified rehabilitation expenditures do not satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit under section 47 of the Internal Revenue Code, may claim the credit under par. (a), if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved by the state historical society before the physical work of construction, or destruction

**BILL**

1 in preparation for construction, begins; if the person includes evidence of such  
2 approval with the person's return; and if the person claims the credit for the same  
3 taxable year in which the person would have claimed the credit for federal purposes.

4 ~~2. A person who would otherwise be eligible to claim the rehabilitation credit~~  
5 ~~under section 47 of the Internal Revenue Code, except that the rehabilitated~~  
6 ~~property is not a certified historic structure, as defined in section 47 (c) (3) of the~~  
7 ~~Internal Revenue Code, may claim the credit under par. (a), if the rehabilitated~~  
8 ~~property is located in a certified downtown under s. 560.03 (21m) or is included in~~  
9 ~~a business area revitalization under s. 560.081; if the rehabilitation is approved by~~  
10 ~~the state historical society before the physical work of construction, or destruction~~  
11 ~~in preparation for construction, begins; if the person includes evidence of such~~  
12 ~~approval with the person's return; and if the person claims the credit for the same~~  
13 ~~taxable year in which the person would have claimed the credit for federal purposes.~~

14 **SECTION 23.** 71.07 (9m) (g) of the statutes is created to read:

15 71.07 (9m) (g) A person who has incurred qualified rehabilitation  
16 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for  
17 certified historic structures located in this state, as described in par. (a), but who is  
18 not a resident of this state and who is not required to file a return under this chapter,  
19 may enter into an agreement with another person, with the department's approval  
20 and in the manner prescribed by the department, so that the other person may claim  
21 the credit under this subsection, if the other person is subject to the taxes imposed  
22 under s. 71.02.

23 **SECTION 24.** 71.07 (9m) (h) of the statutes is created to read:

24 71.07 (9m) (h) A person who receives a credit under this subsection shall add  
25 to the person's liability for taxes imposed under s. 71.02 one of the following

## BILL

## SECTION 24

percentages of the amount of the credits received under this subsection for rehabilitating or preserving the property if, within 5 years after the date on which the preservation or rehabilitation work that was the basis of the credit is completed, the person either sells or conveys the property by deed or land contract or the state historical society certifies to the department of revenue that the historic property has been altered to the extent that it does not comply with the standards promulgated under s. 44.02 (24d):

1. If the sale, conveyance, or noncompliance occurs during the first year after the date on which the preservation or rehabilitation is completed, 100%.

2. If the sale, conveyance, or noncompliance occurs during the 2nd year after the date on which the preservation or rehabilitation is completed, 80%.

3. If the sale, conveyance, or noncompliance occurs during the 3rd year after the date on which the preservation or rehabilitation is completed, 60%.

4. If the sale, conveyance, or noncompliance occurs during the 4th year after the date on which the preservation or rehabilitation is completed, 40%.

5. If the sale, conveyance, or noncompliance occurs during the 5th year after the date on which the preservation or rehabilitation is completed, 20%.

**SECTION 25.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and amended to read:

*Except as provided in subd. 2, for*  
**71.07 (9r) (a) 1.** ~~For~~ *claim as a* taxable years beginning on or after August 1, 1988, any natural person may credit against the taxes otherwise due imposed under s. 71.02, up to the amount of those taxes, an amount equal to 25% of the costs of preservation or rehabilitation of historic property located in this state, including architectural fees and costs incurred in preparing nomination forms for listing in the national register of historic places in Wisconsin or the state register of historic places, if the

## BILL

1 nomination is made within 5 years prior to submission of a preservation or  
2 rehabilitation plan under par. (b) 3. b., and if the physical work of construction or  
3 destruction in preparation for construction begins after December 31, 1988, ~~and~~  
4 ~~before January 1, 2004,~~ except that the credit may not exceed \$10,000, or \$5,000 for  
5 married persons filing separately, for any preservation or rehabilitation project.

6 SECTION 26. 71.07 (9r) (a) 2. of the statutes is created to read:

7 71.07 (9r) (a) 2. For taxable years beginning after December 31, 2003, any  
8 natural person may <sup>claim as a</sup> credit against the taxes imposed under s. 71.02, up to the amount  
9 of those taxes, an amount equal to 30% of the costs of preservation or rehabilitation  
10 of ~~historic~~ property <sup>that is</sup> located in ~~the state~~ including architectural fees and costs  
11 incurred in preparing nomination forms for listing in the national register of historic  
12 places in Wisconsin or the state register of historic places, if the nomination is made  
13 within 5 years prior to submission of a preservation or rehabilitation plan under par.  
14 (b) 3. b., and if the physical work of construction or destruction in preparation for  
15 construction begins after December 31, 2003, except that the credit may not exceed  
16 \$10,000, or \$5,000 for married persons filing separately, for any preservation or  
17 rehabilitation project.

18 SECTION 27. 71.07 (9r) (b) 3. a. of the statutes is amended to read:

19 71.07 (9r) (b) 3. a. The Except as provided in subd. 3. am., the property is listed  
20 on the national register of historic places in Wisconsin or the state register of historic  
21 places, or is determined by the state historical society to be eligible for listing on the  
22 national register of historic places in Wisconsin or the state register of historic places,  
23 or is located in a historic district which is listed in the national register of historic  
24 places in Wisconsin or the state register of historic places and is certified by the state  
25 historic preservation officer as being of historic significance to the district, or is an

a certified downtown under s. 560.03(2m) or is included in  
a business area revitalization under s. 560.081 ✓

## BILL

## SECTION 27

1 outbuilding of an otherwise eligible property certified by the state historic  
2 preservation officer as contributing to the historic significance of the property.

3 SECTION 28. 71.07 (9r) (b) 3. am. of the statutes is created to read:

4 71.07 (9r) (b) 3. am. If the property does not satisfy the requirements under  
5 subd. 3. a., the property is located in a certified downtown under s. 560.03 (21m) or  
6 is included in a business area revitalization under s. 560.081.

7 SECTION 29. 71.10 (4) (dr) of the statutes is renumbered 71.10 (4) (fm).

8 SECTION 30. 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and  
9 amended to read:

10 71.28 (6) (a) 1. *Except as provided in subd. 2., any*  
*claim 45 a*  
11 ~~Any~~ person may credit against the taxes otherwise due imposed  
12 under ~~this chapter s. 71.23~~, up to the amount of those taxes, an amount equal to 5%  
13 of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2)  
14 of the ~~internal revenue code~~ Internal Revenue Code, for certified historic structures  
15 on property located in this state, if the physical work of construction or destruction  
16 in preparation for construction begins after December 31, 1988, ~~and before January~~  
~~1, 2004~~, and the rehabilitated property is placed in service after June 30, 1989.

17 SECTION 31. 71.28 (6) (a) 2. ✓ of the statutes is created to read:

18 ~~71.28 (6) (a) 2. Any person may credit against the taxes imposed under s. 71.23,~~  
19 ~~up to the amount of those taxes, an amount equal to 20% of the costs of qualified~~  
20 ~~rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue~~  
21 ~~Code, for certified historic structures on property located in this state, if the physical~~  
22 ~~work of construction or destruction in preparation for construction begins after~~  
23 ~~December 31, 2003.~~

24 SECTION 32. 71.28 (6) (c) of the statutes is amended to read:

INSERT 22-17 ✓

## BILL

a

1 71.28 (6) (c) No Except as provided in par. (cm), no person may claim the credit  
2 under this subsection unless the claimant includes with the claimant's return  
3 evidence that the rehabilitation was approved recommended by the state historic  
4 preservation officer for approval by the secretary of the interior under 36 CFR 67.6  
5 before the physical work of construction, or destruction in preparation for  
6 construction, began; and the claimant claims the credit for the same taxable year in  
7 which the claimant would have claimed the credit for federal purposes.

8 SECTION 33. 71.28 (6) (cm) of the statutes is created to read:

9 71.28 (6) (cm) <sup>e</sup>(1). A person whose qualified rehabilitation expenditures do not  
10 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal  
11 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit  
12 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),  
13 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)  
14 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved  
15 by the state historical society before the physical work of construction, or destruction  
16 in preparation for construction, begins; if the person includes evidence of such  
17 approval with the person's return; and if the person claims the credit for the same  
18 taxable year in which the person would have claimed the credit for federal purposes.

19 ~~2. A person who would otherwise be eligible to claim the rehabilitation credit~~  
20 ~~under section 47 of the Internal Revenue Code, except that the rehabilitated~~  
21 ~~property is not a certified historic structure, as defined in section 47 (c) (3) of the~~  
22 ~~Internal Revenue Code, may claim the credit under par. (a), if the rehabilitated~~  
23 ~~property is located in a certified downtown under s. 560.03 (21m) or is included in~~  
24 ~~a business area revitalization under s. 560.081; if the rehabilitation is approved by~~  
25 ~~the state historical society before the physical work of construction, or destruction~~

**BILL****SECTION 33**

1 in preparation for construction, begins; if the person includes evidence of such  
2 approval with the person's return; and if the person claims the credit for the same  
3 taxable year in which the person would have claimed the credit for federal purposes.

4 **SECTION 34.** 71.28 (6) (g) of the statutes is created to read:

5 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,  
6 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic  
7 structures located in this state, as described in par. (a), but who is not a resident of  
8 this state and who is not required to file a return under this chapter, may enter into  
9 an agreement with another person, with the department's approval and in the  
10 manner prescribed by the department, so that the other person may claim the credit  
11 under this subsection, if the other person is subject to the taxes imposed under s.  
12 71.23.

13 **SECTION 35.** 71.28 (6) (h) of the statutes is created to read:

14 71.28 (6) (h) A person who receives a credit under this subsection shall add to  
15 the person's liability for taxes imposed under s. 71.23 one of the following  
16 percentages of the amount of the credits received under this subsection for  
17 rehabilitating or preserving the property if, within 5 years after the date on which  
18 the preservation or rehabilitation work that was the basis of the credit is completed,  
19 the person either sells or conveys the property by deed or land contract or the state  
20 historical society certifies to the department of revenue that the historic property has  
21 been altered to the extent that it does not comply with the standards promulgated  
22 under s. 44.02 (24d):

23 1. If the sale, conveyance, or noncompliance occurs during the first year after  
24 the date on which the preservation or rehabilitation is completed, 100%.



## BILL

2. If the sale, conveyance, or noncompliance occurs during the 2nd year after the date on which the preservation or rehabilitation is completed, 80%.

3. If the sale, conveyance, or noncompliance occurs during the 3rd year after the date on which the preservation or rehabilitation is completed, 60%.

4. If the sale, conveyance, or noncompliance occurs during the 4th year after the date on which the preservation or rehabilitation is completed, 40%.

5. If the sale, conveyance, or noncompliance occurs during the 5th year after the date on which the preservation or rehabilitation is completed, 20%.

SECTION 36. 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and amended to read:

*except as provided in subd. 2, any claim as a*  
71.47 (6) (a) 1. Any person may credit against the taxes otherwise due imposed under this chapter s. 71.43, up to the amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the internal revenue code Internal Revenue Code, for certified historic structures on property located in this state, if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, ~~and before January 1, 2004~~ *1/1/2004*, and the rehabilitated property is placed in service after June 30, 1989.

SECTION 37. 71.47 (6) (a) 2. of the statutes is created to read:

~~71.47 (6) (a) 2. Any person may credit against the taxes imposed under s. 71.43,~~  
up to the amount of those taxes, an amount equal to 20% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic structures on property located in this state, if the physical work of construction or destruction in preparation for construction begins after December 31, 2003

SECTION 38. 71.47 (6) (c) of the statutes is amended to read:

INSERT ✓  
25-18

## BILL

## SECTION 38

1 71.47 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit  
2 under this subsection unless the claimant includes with the claimant's return  
3 evidence that the rehabilitation was approved recommended by the state historic  
4 preservation officer for approval by the secretary of the interior under 36 CFR 67.6  
5 before the physical work of construction, or destruction in preparation for  
6 construction, began; and the claimant claims the credit for the same taxable year in  
7 which the claimant would have claimed the credit for federal purposes.

8 SECTION 39. 71.47 (6) (cm) of the statutes is created to read:

9 71.47 (6) (cm) (1) A person whose qualified rehabilitation expenditures do not  
10 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal  
11 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit  
12 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),  
13 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)  
14 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved  
15 by the state historical society before the physical work of construction, or destruction  
16 in preparation for construction, begins; if the person includes evidence of such  
17 approval with the person's return; and if the person claims the credit for the same  
18 taxable year in which the person would have claimed the credit for federal purposes.

19 ~~2. A person who would otherwise be eligible to claim the rehabilitation credit~~  
20 ~~under section 47 of the Internal Revenue Code, except that the rehabilitated~~  
21 ~~property is not a certified historic structure, as defined in section 47 (c) (3) of the~~  
22 ~~Internal Revenue Code, may claim the credit under par. (a), if the rehabilitated~~  
23 ~~property is located in a certified downtown under s. 560.03 (21m) or is included in~~  
24 ~~a business area revitalization under s. 560.081; if the rehabilitation is approved by~~  
25 ~~the state historical society before the physical work of construction, or destruction~~

**BILL**

~~in preparation for construction, begins, if the person includes evidence of such approval with the person's return; and if the person claims the credit for the same taxable year in which the person would have claimed the credit for federal purposes~~

**SECTION 40.** 71.47 (6) (g) of the statutes is created to read:

71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic structures located in this state, as described in par. (a), but who is not a resident of this state and who is not required to file a return under this chapter, may enter into an agreement with another person, with the department's approval and in the manner prescribed by the department, so that the other person may claim the credit under this subsection, if the other person is subject to the taxes imposed under s. 71.43.

**SECTION 41.** 71.47 (6) (h) of the statutes is created to read:

71.47 (6) (h) A person who receives a credit under this subsection shall add to the person's liability for taxes imposed under s. 71.43 one of the following percentages of the amount of the credits received under this subsection for rehabilitating or preserving the property if, within 5 years after the date on which the preservation or rehabilitation work that was the basis of the credit is completed, the person either sells or conveys the property by deed or land contract or the state historical society certifies to the department of revenue that the historic property has been altered to the extent that it does not comply with the standards promulgated under s. 44.02 (24d):

1. If the sale, conveyance, or noncompliance occurs during the first year after the date on which the preservation or rehabilitation is completed, 100%.

**BILL****SECTION 41**

1           2. If the sale, conveyance, or noncompliance occurs during the 2nd year after  
2 the date on which the preservation or rehabilitation is completed, 80%.

3           3. If the sale, conveyance, or noncompliance occurs during the 3rd year after  
4 the date on which the preservation or rehabilitation is completed, 60%.

5           4. If the sale, conveyance, or noncompliance occurs during the 4th year after  
6 the date on which the preservation or rehabilitation is completed, 40%.

7           5. If the sale, conveyance, or noncompliance occurs during the 5th year after  
8 the date on which the preservation or rehabilitation is completed, 20%.

9           **SECTION 42.** 84.013 (3g) of the statutes is created to read:

10           84.013 (3g) Before commencing construction of a major highway project that  
11 is listed under sub. (3) or approved under sub. (6) and that involves construction of  
12 a bypass, the department shall notify the governing body of the city, village, or town  
13 in which a majority of the land affected by the proposed bypass is located that the  
14 department is authorized to construct such bypass. If, within 90 days after the date  
15 of the department's notification, the governing body of the city, village, or town  
16 adopts a resolution stating that construction of an active bypass is in the best public  
17 interest of the city, village, or town and, within 7 days after adoption of the resolution,  
18 sends a copy of the resolution to the department, the department shall design and  
19 construct the major highway project as an active bypass. For purposes of this  
20 subsection, an "active bypass" is a bypass of an existing highway that is designed and  
21 constructed so that access to the bypass requires motorists to exit the existing  
22 highway in order to travel upon the bypass. This subsection shall apply to the use  
23 of any federal funds only to the extent that such use does not result in the loss of any  
24 federal funds. This subsection does not apply to any major highway project that is

**BILL**

1 subject to a contract for its construction and that is in effect on the effective date of  
2 this subsection .... [revisor inserts date].

3 **SECTION 43.** 86.36 of the statutes is created to read:

4 **86.36 Matching funds for local highway projects.** Notwithstanding any  
5 other provision of law relating to the funding of local highway projects by the  
6 department, if the department provides matching funds to a city, village, town, or  
7 county on or after the effective date of this section .... [revisor inserts date], for a local  
8 highway project involving the construction of one or more lanes of highway, the  
9 department shall fund the construction of any lane of highway affected by the project  
10 without regard to its designation as a travel lane or a parking lane. This section  
11 applies only to local highway projects that involve a highway in a business area that  
12 is the subject of revitalization efforts under the State Main Street Program under s.  
13 560.081 (2) (e) or in a certified downtown under s. 560.03 (21m). This section shall  
14 apply to the use of any federal funds only to the extent that such use does not result  
15 in the loss of any federal funds.

16 **SECTION 44.** 86.37 of the statutes is created to read:

17 **86.37 Highway projects involving business and downtown areas. (1)**

18 In this section:

19 (a) "Business area" has the meaning given in s. 560.081 (1) (a).

20 (b) "Municipality" means a city, village, or town.

21 **(2)** In the preliminary stages of considering and planning any highway project  
22 to be funded by the department that involves a highway in which a business area that  
23 is the subject of revitalization efforts under the State Main Street Program under s.  
24 560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located, the  
25 department shall consult on issues concerning the proposed highway project and its

**BILL****SECTION 44**

1 effects on the business or certified downtown area with the department of commerce  
2 and, unless no such board or organization exists, with the business improvement  
3 district board appointed under s. 66.1109 (3) (a), the main street board associated  
4 with the State Main Street Program under s. 560.081 (2) (e), or the nonprofit  
5 downtown planning organization of that municipality. This subsection does not  
6 apply to any highway project for which preliminary engineering was begun before  
7 the effective date of this subsection .... [revisor inserts date].

8 (3) Notwithstanding any other provision of law relating to highway projects  
9 funded by the department, the department shall give priority to the retention of any  
10 on-street parking with respect to a highway project involving the widening of a  
11 highway in which a business area that is the subject of revitalization efforts under  
12 the State Main Street Program under s. 560.081 or a certified downtown under s.  
13 560.03 (21m) is located. This subsection shall apply to the use of any federal funds  
14 only to the extent that such use does not result in the loss of any federal funds. This  
15 subsection does not apply to any highway project that is subject to a contract for its  
16 construction and that is in effect on the effective date of this subsection .... [revisor  
17 inserts date].

18 **SECTION 45.** 101.121 (3) (c) of the statutes is created to read:

19 101.121 (3) (c) The Historic Building Code shall be liberally interpreted to  
20 facilitate the preservation and restoration of qualified historic buildings.

21 **SECTION 46.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

22 **SECTION 47.** 101.121 (4) (a) 2. of the statutes is created to read:

23 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building  
24 who elects under subd. 1. to be subject to the Historic Building Code, the department  
25 shall review any decision of a city, village, town, or county that requires the owner

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1 to comply with a provision of a county or municipal building code, or of any other local  
2 ordinance or regulation, to determine if the provision concerns a matter dealt with  
3 in the Historic Building Code. The procedures in s. 101.02 (7) apply to any review  
4 conducted by the department under this subdivision.

5 **SECTION 48.** 101.121 (4) (b) of the statutes is amended to read:

6 101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home,  
7 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an  
8 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)  
9 (b) and (c).

10 **SECTION 49.** 101.121 (5) of the statutes is created to read:

11 101.121 (5) ADVISORY OPINION OF STATE HISTORICAL SOCIETY. (a) The owner of a  
12 qualified historic building may submit to the state historical society a request for an  
13 advisory opinion with respect to any decision of the department, or of a city, village,  
14 town, or county that is an agent of the department, if the decision pertains to any of  
15 the following:

16 1. This section or a rule promulgated under this section, except for a decision  
17 of the department under sub. (4) (a) 2.

18 2. A variance to a rule promulgated under this section.

19 3. The inspection of a qualified historic building for compliance with a rule  
20 promulgated under this section.

21 (b) Upon receiving a request under par. (a), the state historical society shall  
22 review all information related to the decision and shall render a written opinion on  
23 each of the following:

24 1. Whether the decision is consistent with this section and the rules  
25 promulgated under this section.

**BILL****SECTION 49**

1           2. Whether the alternative decision requested by the owner of the qualified  
2 historic building, or any other alternative decision, is consistent with this section and  
3 the rules promulgated under this section.

4           (c) The state historical society may negotiate with the department or the city,  
5 village, town, or county and the owner of the qualified historic building to seek  
6 agreement on an alternative decision that will allow the greatest possible degree of  
7 restoration and preservation of the qualified historic building, while continuing to  
8 meet the standards for the health, safety, and welfare of occupants of and visitors to  
9 the qualified historic building.

10          (d) The department or a city, village, town, or county may modify any decision  
11 described under par. (a) based on negotiations with the state historical society.

12          (e) This subsection does not modify any procedures for appeal of a decision of  
13 the department or of a city, village, town, or county under this section.

14          **SECTION 50.** 101.121 (6) of the statutes is created to read:

15          101.121 (6) INFORMATIONAL PAMPHLET. (a) In cooperation with the state  
16 historical society, the department shall develop an informational pamphlet designed  
17 to increase awareness and use of the Historic Building Code. The department, in  
18 cooperation with the State Historical Society, shall update the pamphlet as statutes  
19 and rules relating to the Historic Building Code are amended. The pamphlet shall  
20 include all of the following information:

21           1. A description of the Historic Building Code.

22           2. A description of the types and qualities of buildings that are subject to the  
23 Historic Building Code.



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3. An explanation of how the owner of a qualified historic building may elect to be subject to the Historic Building Code and a description of the consequences of that election.

4. A description of other alternative building codes that the owner of a historic building may be eligible to use.

5. A description of where a person may obtain further information regarding historic buildings and the Historic Building Code.

(b) The department and the state historical society shall distribute the pamphlets as they consider necessary to increase awareness of the Historic Building Code.

**SECTION 51.** 101.122 (4) (b) 1. of the statutes is amended to read:

101.122 (4) (b) 1. ~~Order~~ Subject to s. 66.0414, order demolition of the rental unit no sooner than 90 days after the order.

**SECTION 52.** 101.132 (2) (b) 1. of the statutes is amended to read:

101.132 (2) (b) 1. ~~If Except as provided in subd. 3m., if more than 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the entire housing shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.~~

**SECTION 53.** 101.132 (2) (b) 2. of the statutes is amended to read:

101.132 (2) (b) 2. ~~If Except as provided in subd. 3m., if 25% to 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, that part of the housing that is to be remodeled shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.~~

**SECTION 54.** 101.132 (2) (b) 3. of the statutes is amended to read:

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1 101.132 (2) (b) 3. If Except as provided in subd. 3m., if less than 25% of the  
2 interior square footage of any housing with 3 or more dwelling units is to be  
3 remodeled, the remodeling is not subject to the standards in par. (a) unless the  
4 alteration involves work on doors, entrances, exits or toilet rooms, in which case the  
5 doors, entrances, exits or toilet rooms shall conform to the standards in par. (a)  
6 regardless of when the housing was first intended for occupancy.

7 **SECTION 55.** 101.132 (2) (b) 3m. of the statutes is created to read:

8 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to  
9 qualified historic buildings, as defined in s. 101.121 (2) (c).

10 **SECTION 56.** 101.132 (2) (e) 3. of the statutes is created to read:

11 101.132 (2) (e) 3. All rules promulgated by the department under this section  
12 relating to qualified historic buildings, as defined in s. 101.121 (2) (c), shall comply  
13 with and not exceed the requirements of the Fair Housing Act under 42 USC 3601  
14 to 3619 and the Americans with Disabilities Act under 42 USC 12181 to 12189 and  
15 regulations adopted under those acts.

16 **SECTION 57.** 101.19 (1) (intro.) of the statutes is amended to read:

17 101.19 (1) (intro.) <sup>plm</sup> ~~The Except as provided in sub. (1m), the~~ department, by rule  
18 promulgated under ch. 227, shall fix and collect promulgate rules establishing and  
19 providing for the collection of fees which shall, as closely as possible, equal the cost  
20 of providing the following services:

21 **SECTION 58.** 101.19 (1m) of the statutes is created to read:

22 101.19 (1m) The department shall waive the fees under sub. (1) (a), (am), (b),  
23 (d), and (i) for services relating to any preservation or restoration of a building or  
24 structure that is more than 100 years old if the state historic preservation officer  
25 certifies to the department all of the following:

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1 (a) That the plan for the preservation or restoration of the building or structure  
2 complies with the standards promulgated under s. 44.02 (24).

3 (b) That the building or structure is listed on the national register of historic  
4 places in Wisconsin or the state register of historic places, is determined by the state  
5 historical society to be eligible for listing on the national register of historic places  
6 in Wisconsin or the state register of historic places, or is located in a historic district  
7 that is listed on the national register of historic places in Wisconsin or the state  
8 register of historic places and is certified by the state historic preservation officer as  
9 being of historic significance to the district.

10 **SECTION 59.** 101.975 (4) of the statutes is created to read:

11 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the  
12 political subdivision to grant a variance to the Uniform Multifamily Dwelling Code  
13 if all of the following apply:

14 1. The ordinance permits only a variance that relates to handrails or guardrails  
15 of qualified historic buildings, as defined in s. 101.121 (2) (c), that are converted from  
16 single-family dwellings to multifamily dwellings.

17 2. The ordinance requires the owner of a qualified historic building who seeks  
18 a variance to provide the political subdivision with evidence that the type, height,  
19 and design of the handrail or guardrail proposed for installation is historically  
20 appropriate for the owner's building.

21 (b) A political subdivision may grant a variance under an ordinance adopted  
22 under par. (a) if the owner seeking the variance provides the evidence required under  
23 par. (a) 2. and if the handrail or guardrail installation is at least as protective of  
24 public safety as the handrail or guardrail that would otherwise have been required.

25 **SECTION 60.** 254.61 (1) (f) 2. of the statutes is amended to read:

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1           254.61 (1) (f) 2. A structural addition, including a renovation, made to a  
2 structure that was originally constructed at least 50 years before an initial or  
3 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use  
4 other than as a bed and breakfast establishment is proposed. The structural addition  
5 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)  
6 and (1m).

7           **SECTION 61.** 560.03 (21m) of the statutes is created to read:

8           560.03 (21m) (a) Promulgate rules for the certification of downtowns by the  
9 department. The rules promulgated under this subsection shall require the  
10 department to consider at least all of the following factors with regard to an area  
11 being a certified downtown:

12           1. Whether the area is or is located in a central business district.

13           2. The extent to which the structures located in the area are in commercial use,  
14 or zoned for commercial use, and oriented for pedestrian traffic.

15           3. The compactness of the area and the extent to which the area includes a  
16 regular pattern of sidewalks facilitating commercial activity by pedestrians.

17           4. The extent to which the linear street frontage in the area is set back from  
18 the sidewalk.

19           5. The historical value of the area.

20           (b) Ensure that the rules promulgated under par. (a) permit multiple areas  
21 within a populous city, village, or town to be certified downtowns.

22           **SECTION 62.** 560.083 of the statutes is created to read:

23           **560.083 Central business district reconstruction guidelines.** The  
24 department shall develop and publish guidelines to aid communities in  
25 reconstructing central business districts that are destroyed or severely damaged in

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1 major disasters. The guidelines shall include information on relevant financial and  
2 other assistance available to communities from the state government.

3 **SECTION 63.** 823.21 of the statutes is amended to read:

4 **823.21 Dilapidated buildings declared nuisances.** Any building which,  
5 under s. 66.0413 (1) (b) 1., has been declared so old, dilapidated or out of repair as  
6 to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has  
7 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public  
8 nuisance and may be proceeded against under this chapter.

9 **SECTION 64. Nonstatutory provisions; legislature.**

10 ~~(1) STUDY OF RURAL HISTORIC PRESERVATION. The joint legislative council is~~  
11 ~~requested to study methods to promote rural historic preservation. If the council~~  
12 ~~undertakes such a study, the council shall report its findings, conclusions, and~~  
13 ~~recommendations to the 2005 legislature when it convenes.~~

14 (2) REALLOCATION OF AUTHORIZED POSITIONS. The secretary of commerce shall  
15 reallocate 4.0 FTE GPR positions, funded from the appropriation under section  
16 20.143 (1) (a) of the statutes, for the purpose of providing increased staff for the  
17 administration of section 560.081 of the statutes.

18 **SECTION 65. Appropriation changes; historical society.**

19 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005  
20 (3) of the statutes for the appropriation to the state historical society under section  
21 20.245 (1) (a) of the statutes, as affected by the acts of 2003, the dollar amount is  
22 increased by \$75,000 for fiscal year 2003–04 and the dollar amount is increased by  
23 \$75,000 for fiscal year 2004–05 for the purpose of entering into a contract for a survey  
24 under section 44.34 (1) of the statutes to identify and document historic properties  
25 in rural areas of the state.

**BILL****SECTION 65**

(2) ~~HISTORIC AGRICULTURAL BUILDING GRANTS.~~ In the schedule under section 20.005 (3) of the statutes for the appropriation to the state historical society under section 20.245 (1) (a) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$75,000 for fiscal year 2003–04 and the dollar amount is increased by \$75,000 for fiscal year 2004–05 to increase funding for the purpose of awarding historic agricultural building grants under section 44.46 of the statutes, as created by this act.

**SECTION 66. Initial applicability.**

(1) HISTORIC REHABILITATION TAX CREDITS. The renumbering of sections 44.02 (24) and 71.10 (4) (dr) of the statutes; the renumbering and amendment of sections 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a), and 71.47 (6) (a) of the statutes; the amendment of sections 71.07 (5m) (a) 4., 71.07 (9m) (c), 71.07 (9r) (b) 3. a., 71.28 (6) (c), and 71.47 (6) (c) of the statutes; and the creation of sections 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m) (g), 71.07 (9m) (h), 71.07 (9r) (a) 2., 71.07 (9r) (b) 3. am., 71.28 (6) (a) 2., 71.28 (6) (cm), 71.28 (6) (g), 71.28 (6) (h), 71.47 (6) (a) 2., 71.47 (6) (cm), 71.47 (6) (g), and 71.47 (6) (h) of the statutes first apply to taxable years beginning on January 1, 2004.

(END)

**2003-2004 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2446/2insJK

JK:.....

**Insert 18 - 3 ✓**

1           71.07 (9m) (a) 2. A person who would otherwise be eligible to claim the  
2   rehabilitation credit under section 47 of the Internal Revenue Code, except that the  
3   rehabilitated property is not a certified historic structure, as defined in section 47 (c)  
4   ✓ (3) of the Internal Revenue Code, may claim <sup>as</sup> a credit against taxes imposed under s.  
5   71.02, up to the amount of those taxes, an amount equal to 20% of the costs of  
6   qualified rehabilitation expenditures, as defined in section 47 (c) (2) ✓ of the Internal  
7   Revenue, <sup>Code</sup> for rehabilitated property in this state, if the rehabilitated property is  
8   located in a certified downtown under s. 560.03 (21m) or is included in a business  
9   area revitalization under s. 560.081; if the rehabilitation is approved by the state  
10   historical society before the physical work of construction, or destruction in  
11   preparation for construction, begins; and if the physical work of construction, or  
12   destruction in preparation for construction, begins after December 31, 2003.

**Insert 22 - 17 ✓**

13           71.28 (6) (a) 2. A person who would otherwise be eligible to claim the  
14   rehabilitation credit under section 47 of the Internal Revenue Code, except that the  
15   rehabilitated property is not a certified historic structure, as defined in section 47 (c)  
16   (3) of the Internal Revenue Code, may claim <sup>as a</sup> a credit against taxes imposed under s.  
17   71.23, up to the amount of those taxes, an amount equal to 20% of the costs of  
18   qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal  
19   Revenue, <sup>Code</sup> for rehabilitated property in this state, if the rehabilitated property is  
20   located in a certified downtown under s. 560.03 (21m) or is included in a business  
21   area revitalization under s. 560.081; if the rehabilitation is approved by the state  
22   historical society before the physical work of construction, or destruction in

1 preparation for construction, begins; and if the physical work of construction, or  
2 destruction in preparation for construction, begins after December 31, 2003.

**Insert 25 - 18 ✓**

3 71.47 (6) (a) 2. A person who would otherwise be eligible to claim the  
4 rehabilitation credit under section 47 of the Internal Revenue Code, except that the  
5 rehabilitated property is not a certified historic structure, as defined in section 47 (c)  
6 (3) of the Internal Revenue Code, may claim <sup>as</sup> a credit against taxes imposed under s.  
7 71.43, up to the amount of those taxes, an amount equal to 20% of the costs of  
8 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal  
9 Revenue <sup>Code</sup>, for rehabilitated property in this state, if the rehabilitated property is  
10 located in a certified downtown under s. 560.03 (21m) or is included in a business  
11 area revitalization under s. 560.081; if the rehabilitation is approved by the state  
12 historical society before the physical work of construction, or destruction in  
13 preparation for construction, begins; and if the physical work of construction, or  
14 destruction in preparation for construction, begins after December 31, 2003.